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UNITED STATES
HOUSE OF REPRESENTATIVES

ROSA L. DeLAURO

3RD DISTRICT, CONNECTICUT

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POLICY COMMITTEE

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FINANCIAL SERVICES AND
GENERAL GOVERNMENT

COMMITTEE ON THE BUDGET

April 10, 2014

Ms. Laura Vaught
Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue NW, Room 3426
Washington, D.C. 20460-0003

Dear Ms. Vaught:

Enclosed is a letter I recently received from my constituents, Heike Karsch and Gerald Valentine of 78 West Helen Street, Hamden, Connecticut 06514.

I would appreciate it if you could review this correspondence to determine whether you can be of assistance to my constituent in resolving this matter. You can notify me of the outcome through my District Office located at 59 Elm Street, New Haven, Connecticut 06510. If you need any additional information, please contact my staff assistant, Nick Savaria, at 203-562-3718. My fax number is 203-772-2260.

Thank you for your assistance with this matter.

Sincerely,

ROSA L. DeLAURO
Member of Congress

RLD/ns

Enclosure



Correspondence Management System

Control Number: AL-14-000-8498

Printing Date: April 24, 2014 01:00:23



Citizen Information

Citizen/Originator: DeLauro, Rosa

Organization: U.S. House of Representatives
Address: 2262 Rayburn Office Building House, Washington, DC 20515

Constituent: Karsch, Heike

Organization: N/A
Address: Address Unknown

Valentine, Gerald

Organization: N/A
Address: Address Unknown

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AL-14-000-8498 **Alternate Number:** N/A
Status: Pending **Closed Date:** N/A
Due Date: May 6, 2014 **# of Extensions:** 0
Letter Date: Apr 10, 2014 **Received Date:** Apr 22, 2014
Addressee: OCIR-Associate Administrator - **Addressee Org:** EPA
OCIR
Contact Type: LTR (Letter) **Priority Code:** Normal
Signature: RA-R1-Regional Administrator - **Signature Date:** N/A
Region 1
File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA
Administrator and other senior officials - Electronic.
Subject: EPA INSPECTION OF THE GNHWPCA
Instructions: RA-R1-Prepare draft response for signature by the Regional Administrator for Region 1
Instruction Note: PLEASE PREPARE A RESPONSE FOR THE NEW HAVEN, CONNECTICUT OFFICE
General Notes: N/A
CC: Greg Spraul - OCIR-CA-WPTT
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: Barbara Barrett
Office: R1-OES
Due Date: May 6, 2014
Assigned Date: Apr 24, 2014
Complete Date: N/A
Instruction: RA-R1-Prepare draft response for signature by
the Regional Administrator for Region 1

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Cassaundra Eades	OCIR	R1	Apr 22, 2014	May 6, 2014	N/A
Instruction: RA-R1-Prepare draft response for signature by the Regional Administrator for Region 1					



Correspondence Management System

Control Number: AL-14-000-8498

Printing Date: April 24, 2014 01:00:23



Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Priscilla Flores	R1	R1-OES	Apr 23, 2014	May 6, 2014	N/A
Instruction: OES: Prepare response for Regional Administrator's signature. Email response to Barbara Barrett and Tammy Vanni.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
Cassandra Eades	OCIR	Assign R1 as lead office	Apr 22, 2014
Priscilla Flores	R1	Accepted the group assignment	Apr 23, 2014
Priscilla Flores	R1	Assign R1-OES as lead office	Apr 23, 2014
Barbara Barrett	R1-OES	Accepted the group assignment	Apr 24, 2014
Barbara Barrett	R1-OES	Take task	Apr 24, 2014

Comments

Commentator	Comment	Date
No Record Found.		

To: Nick Savaria

From: Gerald Valentine

RE: EPA inspection of the GNHWPCA

February 17, 2014

Dear Nick,

I want to thank you again for your sustained attention to this matter.

This letter is a follow-up to our meeting about the inspection of the GNHWPCA by the EPA in December 2013. As you may recall, my first contact with the EPA regarding the sewage overflows into the UARG was in August 2013. Initially, I was informed that the scale of the problem did not warrant detailed investigation by the EPA, and that the enforcement of statutory requirements was largely up to the State of Connecticut Department of Energy & Environmental Protection (DEEP) and local agencies. However, I was promptly re-contacted by the EPA after John Melcher (Region 1 - EPA Office of Environmental Stewardship) spoke with his supervisors about the situation. Mr. Melcher then encouraged me to submit a citizen's complaint. After the complaint was reviewed, an information request from the EPA was sent to the GNHWPCA. Mr. Melcher informed me that this was the first step in an investigation, and that my complaint validated concerns about the GNHWPCA's delayed implementation of the New Haven Long Term CSO Control Plan (NHLTCSOCP).

In the middle of November 2013, I called Mr. Melcher to inform him that the sewage overflow problem was not limited to the UARG. The Temple Street Garage (TSG) has also recurrently flooded with mixed storm water and sewage that likely originates, in part, from discharge through an active 'regulator', identified as CSO 034 in the GNHWPCA's Municipal NPDES Permit, that is located in the vicinity of the TSG. He informed me that the EPA was planning a site visit to the GNHWPCA from 12/16/13 to 12/18/13.

On December 12, 2013, I updated my citizen's complaint with additional evidence that the City of New Haven and the GNHWPCA have known about, and failed to abate, the public nuisance of sewage spills into and around these parking structures. I also informed the EPA that to the best of my knowledge, the City of New Haven Department of Public Health, and the DEEP have not meaningfully discharged their regulatory and public safety obligations. Gene Hicks, a supervising sanitary engineer at the DEEP informed me that enforcement of sewage overflows into public buildings was 'fuzzy' because enforceable documents have been crafted to protect natural habitats and bodies of water from sewage bypass, not public roadways or parking garages.

On January 13, 2014, I confirmed with Mr. Melcher that the site visit took place. He informed me that it was performed in conjunction with a private contractor out of Golden, Colorado. Mr. Melcher would not specifically address the accuracy of my complaint because such information might be used

in an enforcement action. However, Mr. Melcher stated that the GNHWPCA had freely acknowledged the problem in the vicinity of the UARG. Mr. Melcher declined my request for a written statement to this effect.

Furthermore, he was uncertain whether the misrepresentation by the GNHWPCA of the status of the regulator near the UARG would be included in the report. This omission would be misguided because this false statement represents a criminal act under the Municipal NPDES Permit that regulates the operations of the GNHWPCA. To the best of my understanding, the NPDES is an enforceable document that falls within the EPA's jurisdiction.

According to the Municipal NPDES Permit (ID CT0100366) - Section 1: General Provisions:

(D) Any false statement in any information submitted pursuant to this Section of the permit may be punishable as a criminal offense under Section 22a-438 or 22a-131a of the CGS or in accordance with Section 22a-6, under Section 53a-157b of the CGS.

More generally, Mr. Melcher was uncertain whether any of the issues broached in my complaint would be addressed in their report because it was being prepared by a third party contractor.

I subsequently spoke with Mr. Melcher's supervisor, Denny Dart, regarding the inspection. She also stated that they had to keep information 'close to the chest' due to possible enforcement actions. When asked about editorial control over the content of the report, she implied that the EPA deferred to the private contractor for guidance on the content of the report due to their expertise in such matters. If the situation presented it in my citizen's complaint is verified, then it is inconsistent with the EPA's own policies to omit such evidence of violations from the report.

According to the EPA's *NPDES Compliance Inspection Manual*:

Inspectors should review any CSO reports submitted by the permittee (GNHWPCA). Other documents and/or information that *should be reviewed*, if available include:

- citizen complaints
- correspondence
- potential for impact to human health or the environment.



EPA 305-X 04 00
July 2004

NPDES Compliance Inspection Manual

The *Compliance Inspection Manual* continues:

The inspector should make copies of those documents that (1) establish enforceable CSO requirements, (2) provide evidence that an enforceable requirement has been violated or (3) provide evidence of environmental problems related to CSOs.

It is presently unclear whether the EPA is sufficiently aware of its own ministerial duties with respect to the content of my citizen's complaint. Although I have inquired on multiple occasions during my phone conversations with EPA officials, I still have not yet received a clear answer on what category of inspection was performed in mid-December. My concern is that the EPA will take the position that they are not necessarily bound to the *Compliance Inspection Manual* because the type of inspection that was performed was not a designated Inspection Category within their manual.

In summary, incontrovertible evidence exists that the CNH and the GNHWPCA have engaged in negligent and reckless behavior with respect to the public nuisance of sewage overflows into heavily utilized public areas of downtown New Haven. The CNH and the GNHWPCA have misrepresented facts to regulatory authorities, have not followed their own internal protocols for notification about flooding, and have deliberately suppressed information of vital interest to the public. Their collective misbehavior was not merely the result of inexperience and clearly more than inattention. It is not mere oversight when the CNH incurs large expenses for the removal of sewage from a public parking structure and fails to report the event to regulatory and public safety officials.

Without accountability, the array of factors that contributed to the development of this nuisance will continue to place the public at risk. The conspicuous public nuisance of sewage overflows in the vicinity of Yale-New Haven Hospital was not abated as of August 10, 2012, even though a definitive abatement of the nuisance at this location was clearly articulated by sanitary engineers as early as 2001. It is also not apparent that agencies (DEEP, CNH-Public Health Department) with direct responsibility for investigating sewage spills in New Haven, and enforcing regulations that prohibit them, have taken effective action. Finally, the EPA has provided me with conflicting and inconsistent information regarding their procedures and scope of responsibility regarding this matter.

According to the U.S. Environmental Protection Agency's publication *Benefits of Protecting Your Community From Sanitary Sewer Overflows* (June 2000 EPA 832-F-00-005),

'Keeping sewage in the sewer leads to healthier communities that enjoy less danger to children, the elderly, and people with suppressed immune systems who are more likely to catch sewage-borne diseases that healthy adults, are more likely to develop the most serious forms of disease, and are more likely to spread disease to other people causing secondary outbreaks.'

By extension, it is clearly in the public's interest for hospital sewage to stay in the sewer located within the area from which it was derived until it can be safely conveyed to distal points in accordance with U.S. Federal law, State of Connecticut statutes and Municipal Ordinances. Therefore, I believe Representative DeLauro's constituency is entitled to reassurance from the EPA that they are aware of their duty to fully investigate the purported violations, and if verified, to ensure that appropriate constructive actions are taken.

Sincerely,

Gerald Valentine, M.D.

